



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 1079-00
10 March 2000

CAR [REDACTED] HI USMC
[REDACTED]
[REDACTED]

Dear Capt [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your fitness report for 1 July to 31 December 1993.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board, dated 9 February 2000 with enclosure, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 4 February 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion from MMOA-4 in finding that your failures of selection to major should stand. They found that your selection would have been definitely unlikely in any event. Since they found insufficient grounds to remove your failures of selection, they had no basis to set aside action to effect your involuntary discharge from the Regular Marine Corps on 1 August 2000. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1610
MMER
9 Feb 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF CAPTAIN [REDACTED]
[REDACTED] USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 27 Jan 00
(2) CMC Advisory Opinion 1600 MMOA-4 of 4 Feb 00
(3) Copy of CMC ltr 1610 MMER of 9 Feb 00

1. As evidenced by enclosure (1), PERB removed from Captain [REDACTED] official military record, his fitness report for the period 930701 to 931231 (SA).

2. We defer to BCNR on the issue of Captain [REDACTED]'s request for the removal of his failure of selection to the grade of Major. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided Captain [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]
Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
27 JAN 2000

From: Commandant of the Marine Corps

To: Captain [REDACTED] USMC

[REDACTED] Avenue,

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report(s):

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
25 Jan 94	M [REDACTED]	930701 to 931231 (SA)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]
By [REDACTED]



1079-00

PARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1600
MMA-4
4 Feb 00

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMR Request for Advisory Opinion in the case of
Captain [REDACTED] USMC
of 28 Jan 00

1. Recommend disapproval of Captain [REDACTED] request for removal of his failures of selection.

2. Per the reference, we reviewed Captain [REDACTED]'s record and petition. He failed selection on the FY00 and FY01 USMC Major Selection Boards. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Semi-Annual fitness report of 930701 to 931231. Captain [REDACTED] requests removal of his failures of selection.

3. In our opinion, the petitioned report presented considerable competitive concern to the record and its removal enhances the competitiveness of the record, but not significantly. However, Captain [REDACTED]'s record contains other areas of serious competitive concern that more than likely contributed to his failure of selection:

a. **Value & Distribution.** Throughout his career, Captain [REDACTED] was thirteen officers ranked above him and four below, placing him at the bottom of the pack.

b. **Section B Marks.** Captain [REDACTED]'s record contains less competitive Section B marks in Regular Duties, Additional Duties, Administrative Duties, Handling Officers, Handling Enlisted, Training Personnel, Personal Appearance, Military Presence, Attention to Duty, Cooperation, Initiative, Judgment, Force, Leadership and Economy of Management. The marks in Attention to Duty, Initiative and Judgment continue into 1996-7.

c. **Semi-Annual Fitness Report of 930101 to 930630.** Captain [REDACTED] receives a mark of "Above Average" in Administrative Duties and the Reviewing Officer comments: "Has shown a marked improvement in personal communication skills. In the bottom half of extremely competitive peers."

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

4. In summary, the petitioned report does present considerable competitive concern to the record and its removal enhances the competitiveness of the record, but not significantly. However, Captain [REDACTED] record contains other areas of serious competitive concern that more than likely contributed to his failure of selection. Therefore, we recommend disapproval of Captain [REDACTED] request for removal of his failures of selection.

5. Point of contact is LtCol [REDACTED] at [REDACTED]

[REDACTED]

Lieutenant Colonel, U.S. Marine Corps
Head, Officer Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division